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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Kenneth Michael HATHAWAY,** Defendant(s)	Magistrate Case No. '08 MJ 0722 COMPLAINT FOR VIOLATION OF: Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii) Transportation of Illegal Aliens

The undersigned complainant, being duly sworn, states:

On or about **March 6, 2008,** within the Southern District of California, defendant **Kenneth Michael HATHAWAY** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Araceli VICTORINO-Mendoza, Oscar MONROY-Roldan,** and **Cesar Saul CHAIDEZ-Estrada** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 7th DAY OF MARCH 2008.

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Kenneth Michael HATHAWAY

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Araceli VICTORINO-Mendoza, Oscar MONROY-Roldan,** and **Cesar Saul CHAIDEZ-Estrada** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On March 6, 2008 Acting Supervisory Border Patrol Agent R. Morales was conducting uniformed patrol duties near Crestwood Road in Campo, California. At approximately 9:15 AM, Agent Morales was stationary near a construction zone at the Interstate 8 / Crestwood Road interchange when a citizen who had exited the eastbound lanes of the freeway, approached him and stated that he had observed approximately fifteen people he believed were illegal aliens run out of the bushes near the off ramp and load into a white van. Moments later, Agent Morales observed a white Ford Econoline van traveling down the eastbound off ramp toward him. Agent Morales asked the citizen if the van coming down the ramp was the same one he had observed, and the citizen confirmed that it was. Agent Morales then observed the white Ford van turn north on Crestwood Road and re-entered Interstate 8 heading west. Agent Morales immediately announced via Agency radio that he had the received the citizen's report, and was he was following the vehicle west on Interstate 8.

At approximately 9:30 AM, Agent Morales pulled his marked Agency vehicle alongside the driver's side of the white Ford van and observed a white male subject, later identified as the defendant **Kenneth Michael HATHAWAY,** behind the wheel. Agent Morales advised responding agents of the description of the driver and dropped back behind the white Ford van. At approximately 9:33 AM, Agent K. Bartholomew activated the emergency lights on his vehicle attempting a vehicle stop approximately 1/2 mile west of Buckman Springs Road on westbound Interstate 8. The defendant yielded to the shoulder, and Agent Morales, in full uniform, approached the vehicle and identified himself as a Border Patrol Agent. Through the driver's side window of the van, Agent Morales was able to see numerous suspected smuggled aliens attempting to conceal themselves in the rear of the vehicle and a single suspected smuggled alien in the front passenger seat. The defendant was removed from the vehicle and secured while agents removed an additional thirteen passengers from the interior of the white Ford van. Through field interviews it was determined that each of the thirteen passengers was a Mexican citizen present in the United States illegally. All thirteen passengers were placed under arrest by agents on scene and transported back to the Campo Station for processing. The defendant was placed under arrest for violation of 8 USC 1324 / alien smuggling.

DEFENDANT STATEMENT:

Defendant **Kenneth Michael HATHAWAY** was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation.

The defendant stated that he was recruited to smuggle by a male subject he met in San Diego, CA. The defendant stated that he subsequently met with his dealer at a Wal-Mart store in San Diego, CA on 03/05/2008. The defendant was told he would be picking up six people near the Golden Acorn Casino. The defendant stated that he was instructed to drive east toward the casino and look for a sign to take the next exit for the casino. The defendant stated that he was told to pull over and stop and shout, "Huaceto," and the people would come out and get into the van.

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CONTINUATION OF COMPLAINT:
Kenneth Michael HATHAWAY

The defendant stated that he left San Diego, CA early this morning, drove east until he found the sign along the eastbound lanes of the freeway, pulled over, stopped and shouted, "Huaceto." At that time, thirteen people came out of the bushes and started piling into the van. The defendant stated that he knew they were illegal aliens. The defendant stated that he was supposed to take the aliens back to San Diego, CA. The defendant stated that he was to be paid $500.00 (US) and one ounce of marijuana for transporting the aliens from the pick up spot to San Diego, CA.

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Araceli VICTORINO-Mendoza, Oscar MONROY-Roldan,** and **Cesar Saul CHAIDEZ-Estrada** agree in summary that they are citizens and nationals of Mexico illegally present in the United States. They admit to entering the United States illegally with the help of a foot guide. The material witnesses stated that they were each to pay $2,000.00 (US) to be smuggled into the United States.